

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the Authority set forth in D.C. Official Code § 47-2853.10 (a) (12) and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register, a new 17 DCMR Chapter 23 (Real Estate Appraisers), and amendment of 17 DCMR Chapter 33. This rulemaking is necessary to update the Real Estate Appraiser regulations to reflect changes in the law and the profession. In addition, pursuant to a September 2003 vote of the Board of Real Estate Appraisers, the rulemaking reflects two new license categories: appraiser trainees and certified residential real property appraisers.

Title 17 DCMR Chapter 33 is amended as follows:

The title of Chapter 33, Title 17 DCMR is amended to read as follows:

“GENERAL RULES: FUNERAL DIRECTORS, VETERINARIANS, INTERIOR DESIGNERS AND REAL ESTATE APPRAISERS”; and

Title 17 DCMR Chapter 33, section 3300.1(d) is amended by adding a new paragraph to read as follows:

(d) The Board of Real Estate Appraisers, established by D.C. Official Code § 47-2853.06(g)

Title 17 DCMR Chapter 23 is amended to read as follows:

CHAPTER 23 -- REAL ESTATE APPRAISERS

Secs.

- 2300 General Provisions
- 2301 General Requirements for Licensure and Registration
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2300 GENERAL PROVISIONS

- 2300.1 This chapter shall apply to holders of and applicants for a license or registration to practice real estate appraising. The purpose of this chapter is to establish and enforce education, experience, and practice standards that will allow individuals licensed or registered in the District of Columbia to perform appraisals for federally related and non-federally related real estate transactions.
- 2300.2 17 DCMR Chapter 33 (General Rules) shall supplement this chapter and establish the procedural requirements associated with initiating and holding disciplinary proceedings against licensees. In the event that a provision within 17 DCMR Chapter 33 conflicts with this chapter or the Act, the applicable provision within this chapter or the Act shall control.
- 2300.3 The Board may meet in public session at least one a month, but not less than four times per year. The Board shall publish notice of the time and place of each meeting in the D.C. Register at least one week in advance of the meeting. The public has the right to appear before the Board and testify on subjects within the Board's jurisdiction.
- 2300.4 The Board shall elect a chairperson from among the members of the Board. The chairperson shall have the authority to sign all official documents issued on behalf of the Board, after approval by the Board.
- 2300.5 A majority of the legislated size of the Board shall be present at a meeting in order to constitute the quorum necessary to conduct official business.
- 2300.6 A majority vote of all Board members present and voting is necessary and sufficient for any action taken by the Board.

- 2300.7 Board members may convene in small committees of not less than three Board members to carry out specific functions of the Board, such as holding disciplinary hearings, if the full Board ratifies the actions of the small committees.
- 2300.8 Copies of all records and papers pertaining to licensure, certification, registration, inspections, investigations, and other matters under the jurisdiction of the Board shall be maintained by the Department on behalf of the Board. Copies of all records and papers duly certified and authenticated by the seal of the Board shall be received in evidence in all courts equally, and with like effect as the original, subject to the rules of evidence.
- 2300.9 It shall be Board policy to retain jurisdiction over the hearing process for each disciplinary matter that it initiates unless the Board, by majority vote, agrees to send a disciplinary matter to the Office of Administrative Hearings (OAH) for adjudication pursuant to D.C. Official Code § 2-1831.01 et seq. (2004 Supp.). Any disciplinary proceeding initiated by the Board, and any hearing or other conference held by the Board pursuant thereto, shall comply with the requirements of this chapter and the Act.
- 2300.10 Any licensee adversely impacted by a final OAH decision in a case initiated by the Board from the Board's issuance of 'Charges and Specifications' against a licensee, except those decisions related to procedural matters not under the Board's jurisdiction, may appeal the OAH decision to the Board. Appeals from any Board decision, whether rendered by the Board in its capacity as an initial hearing body or as an appellate body, shall be made to the D.C. Court of Appeals.

2301 GENERAL REQUIREMENTS FOR LICENSURE AND REGISTRATION

- 2301.1 An applicant for a license or registration shall do the following:
- (a) Submit a completed application on a form supplied by the Board;
 - (b) Pay the required fees;
 - (c) Submit to the Board all required supporting credentials, documents, and materials requested by the Board including the following:
 - (i) Transcripts;
 - (ii) References;
 - (iii) Test scores;
 - (iv) Affidavits of successful completion of prelicensing or precertification coursework; and

- (v) A completed and notarized affidavit of work experience.
 - (d) Submit with the application two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2");
 - (e) If applicable, the applicant shall submit proof of having passed the examination required by the Board for the level of licensure desired by the applicant.
- 2301.2 Applicants shall be at least eighteen (18) years of age.
- 2301.3 Applicants may not have been convicted of an offense that bears directly on the fitness of the applicant to be licensed.
- 2301.4 Application fees and examination fees are not refundable.
- 2301.5 An applicant may not have been convicted of a crime in any jurisdiction or disciplined by any regulatory body in any jurisdiction for any activity that either would be grounds for the Board to discipline the applicant or would impair the applicant's ability to transact the business of a licensed or certified real property appraiser, or appraiser trainee.
- 2301.6 An applicant may not have been convicted in any jurisdiction of an offense bearing directly upon the applicant's fitness to be licensed under this chapter or the Act. Any plea of nolo contendere shall be considered a conviction for the purposes of these regulations.
- 2302 PRELICENSURE AND PREREGISTRATION EDUCATION REQUIREMENTS**
- 2302.1 Prior to applying for registration, applicants for the Appraiser Trainee classification shall fulfill the requirements set forth in § 2325 of this chapter.
- 2302.2 Applicants for the Licensed Residential Real Property Appraiser classification shall complete one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal, including those subjects listed in subsection 2302.10.
- 2302.3 Applicants for the Certified Residential Real Property Appraiser classification shall complete two hundred (200) classroom hours in subjects related to real estate appraisal, including those courses listed in § 2302.10. The two hundred (200) classroom hours may include the one hundred fifty (150) classroom hour requirement for the Licensed Residential Real Property Appraiser classification. Applicants shall also have at least a two-year associate's degree or have completed 21 hours of college course work. The 21 hours of college course work shall have been earned from an accredited college, junior college, community college, or university in any of the following subjects:

- (a) English composition;
- (b) Principles of economics (micro or macro);
- (c) Finance;
- (d) Algebra, geometry, or higher mathematics;
- (e) Statistics;
- (f) Introduction to computers – word processing/spreadsheets; and
- (g) Business or real estate law.

2302.4 Applicants for the Certified General Real Property Appraiser classification shall complete three hundred (300) classroom hours of courses in subjects related to real estate appraisal, including those courses listed in § 2302.10. The three hundred (300) hours may include the one hundred fifty (150) classroom hours required for the Licensed Residential Real Property Appraiser classification or the two hundred (200) classroom hours required for the Certified Residential Real Property Appraiser Classification. Applicants shall also possess at least a bachelor's degree or have completed 30 hours of college course work earned from an accredited college, junior college, community college, or university in the following subjects:

- (a) English composition;
- (b) Micro economics;
- (c) Macro economics;
- (d) Finance;
- (e) Algebra, geometry, or higher mathematics;
- (f) Statistics;
- (g) Introduction to computers-word processing/spreadsheets;
- (h) Business or real estate law; and
- (i) Two elective courses in accounting, geography, ag-economics, business management, or real estate.

2302.5 The Board shall not grant credit toward the prelicensure classroom hour requirement unless the length of a class is at least fifteen (15) hours and the individual passes an examination pertinent to that class.

- 2302.6 Prelicensure course coverage on the Uniform Standards of Professional Appraisal Practice ("USPAP") for all license classifications shall include the greater of fifteen (15) hours or the minimum hours required by the Appraisal Qualifications Board ("AQB").
- 2302.7 Prelicensure education credit for the USPAP course shall only be awarded to licensees completing a USPAP course taught by an AQB certified instructor.
- 2302.8 The applicant shall list all qualifying courses, seminars, workshops, or conferences on the official form provided by the Board. The applicant shall sign the form and have the form notarized by a notary public. The applicant shall attach proof of completion of the required courses to the application, which shall consist of course certificates signed by the course providers or an official transcript in an envelope sealed by the school.
- 2302.9 An applicant shall not use courses that he/she has taught to satisfy the prelicensure/precertification educational requirements.
- 2302.10 The required prelicensure core curriculum for each license classification shall meet or exceed the requirements established by the AQB. Course content shall substantially comply with the AQB's guidelines for curriculum content as indicated in the AQB required core curriculum, AQB Guide Note 1 (GN-1). The prelicensure core curriculum for each license classification shall be as follows:
- (a) Appraisal Trainee:
- (1) Basic appraisal principles - 30 hours;
 - (2) Basic appraisal procedures - 30 Hours; and
 - (3) The 15-Hour national USPAP course or its equivalent.
- Total – 75 Hours
- (b) Licensed Residential Real Property Appraiser classification shall include coverage of the following topics:
- (1) Basic appraisal principles - 30 hours;
 - (2) Basic appraisal procedures - 30 Hours;
 - (3) The 15-Hour national USPAP course or its equivalent – 15 Hours;
 - (4) Residential market analysis and highest and best use - 15 Hours;

- (5) Residential appraiser site valuation and cost approach – 15 Hours;
- (6) Residential sales comparison and income approaches – 30 Hours; and
- (7) Residential report writing and case studies – 15 Hours.

Total – 150 Hours

(c) Certified Residential Real Property Appraiser:

- (1) Basic appraisal principles - 30 hours;
- (2) Basic appraisal procedures - 30 Hours;
- (3) The 15-Hour national USPAP course or its equivalent – 15 Hours;
- (4) Residential market analysis and highest and best use - 15 Hours;
- (5) Residential appraiser site valuation and cost approach – 15 Hours;
- (6) Residential sales comparison and income approaches – 30 Hours;
- (7) Residential report writing and case studies – 15 Hours;
- (8) Statistics, modeling, and finance – 15 Hours;
- (9) Advanced residential applications and case Studies – 15 Hours; and
- (10) Appraisal Subject Matter Electives – 20 Hours.

Total – 200 Hours (may include hours over minimum shown above in other modules)

(d) Certified General Real Property Appraiser:

- (1) Basic appraisal principles - 30 hours;
- (2) Basic appraisal procedures - 30 Hours;
- (3) The 15-Hour national USPAP course or its equivalent – 15 Hours;
- (4) General appraiser market analysis and highest and best use - 30 Hours;
- (5) Statistics, modeling, and finance – 15 Hours;

- (6) General appraiser sales comparison approach – 30 Hours;
- (7) General appraiser site valuation and cost approach – 30 Hours;
- (8) General appraiser income approach – 60 Hours;
- (9) General appraiser report writing and case studies – 30 Hours; and
- (10) Appraisal subject matter electives – 30 Hours.

Total – 300 Hours (may include hours over minimum shown above in other modules)

- 2302.11 The following factors shall be used to convert university, college, junior college, and community college course credits into classroom hours:
- (a) Semester credits x 15 = classroom hours; or
 - (b) Quarter credits x 10 = classroom hours.
- 2302.12 Curriculum content for each course listed in § 2302.10 shall comply with the applicable portions of the Required Core Curriculum Content Guide Note published by the Appraisal Foundation and the AQB as part of the Real Property Appraiser Qualification Criteria. The Board may add additional requirements to the curriculum of any license classification if the Board's additions substantially comply with AQB criteria. Additions to the curriculum content shall be effective only after the Board has published a Notice of Final Rulemaking.
- 2302.13 The education and experience requirements for all classes of licensure shall meet or exceed the standards established by the AQB.
- 2302.14 If the Appraisal Qualifications Board amends the education or experience requirements for any license classification, and the amendments increase the education or experience requirements beyond the requirements established by the Board in this chapter, then the corresponding requirements established by the Board shall be deemed amended to reflect the AQB's requirements. The Board shall amend this chapter as soon as practicable to reflect any changes in education and experience requirements established by the AQB.
- 2302.15 Amendments to the prelicensing education and experience requirements shall not affect the status of licensees possessing current active licenses unless otherwise required by the AQB.

2303 ACCREDITATION AND CERTIFICATION OF PRELICENSE EDUCATION PROGRAMS

- 2303.1 Appraisal organizations shall obtain advance approval from the Board for any changes to be made in Board recognized equivalent courses with regard to program structuring, course content, course completion standards, textbooks or course materials, or instructor qualification requirements.
- 2303.2 An organization that has obtained Board recognition of its courses may advertise that such courses are "recognized" for equivalent prelicensure education credit toward the requirements for initial District of Columbia real estate appraiser licensure or certification.
- 2303.3 All courses offered by bona fide professional appraisal organizations deemed acceptable by the Board shall be acceptable for credit.
- 2303.4 Appraisal and appraisal related courses taught by institutions of higher learning recognized by an accrediting body approved by the United States Secretary of the Department of Education shall be acceptable for prelicensure or precertification credit if the course has a final written examination.
- 2303.5 All courses endorsed by the Appraiser Qualifications Board of the Appraisal Foundation shall be acceptable for credit.
- 2303.6 All courses submitted for credit shall indicate a passing grade or indicate successful completion of the course and the examination.
- 2303.7 The Board may request information from the applicant or the course provider, such as course descriptions, syllabi, or textbook references, in order to evaluate course content.
- 2303.8 Correspondence courses may be acceptable for prelicensure or precertification credit if the course meets the following conditions:
- (a) The course is presented by an accredited college or university that offers correspondence programs in other disciplines;
 - (b) An individual successfully completes a written examination administered by an official approved by the college or university; and
 - (c) The subject matter is appraisal related, and the length of the course is a minimum of fifteen (15) classroom hours for a prelicensure or precertification course.
- 2303.9 The Board may issue a list of recognized prelicensure or precertification education programs.

2304 PRELICENSURE AND PREREGISTRATION EXPERIENCE REQUIREMENTS

- 2304.1 There is no experience requirement for the Appraisal Trainee registration classification.
- 2304.2 An applicant for the Licensed Residential Real Property Appraiser shall have two thousand (2000) hours of appraisal experience obtained in no fewer than twelve (12) months.
- 2304.3 An applicant for the Certified Residential Real Property Appraiser classification shall have two thousand five hundred hours (2500) of appraisal experience obtained during no fewer than twenty-four (24) months of appraisal work.
- 2304.4 An applicant for the Certified General Real Property Appraiser classification shall have three thousand (3000) hours of appraisal experience obtained during no fewer than thirty (30) months of appraisal work.
- 2304.5 The Board may treat an applicant's hours of appraisal experience as cumulative when applied by the applicant toward achieving the necessary hours of appraisal experience for each classification.
- 2304.6 For the Certified General Real Property Appraiser classification, fifty percent (50%) or one thousand five hundred (1,500) hours of the required three thousand (3,000) hours of experience shall be in appraising non-residential real property.
- 2304.7 Experience shall be supported by adequate written appraisal reports or file memoranda that shall be made available to the Board upon request.
- 2304.8 The property address for each appraisal assignment shall be identified in an experience log.
- 2304.9 An hour of experience means verifiable time spent actively engaging in tasks that are in accordance with acceptable appraisal practice. Qualifying tasks may include activities such as data gathering, property inspection, analysis, report writing, or any other activity approved by the Appraisal Qualifications Board. Minimum standards for reports are those standards that are prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.
- 2304.10 Except as provided in this section, acceptable appraisal practice for experience credit includes appraisals, review appraisals, real estate appraisal consulting, and mass appraisal activities that comply with USPAP and conforms to USPAP Standards 1, 2, 3, 4, 5, or 6, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures, and reporting conclusions.

2304.11 Appraisal experience shall be verifiable and shall be reported to the Board on a form provided by the Board. A completed form shall include the following information;

- (a) Type of property;
- (b) Date of value;
- (c) Address of appraised property;
- (d) Description of work performed by the trainee/applicant and the scope of the review and supervision by the supervising appraiser;
- (e) Number of actual work hours by the trainee/applicant on the assignment; and
- (f) The signature and state certification number of the supervising appraiser if applicable.

2304.12 The following experience credit shall be given for work performed in accordance with the Uniform Standards of Professional Appraisal Practice:

- (a) 75 % credit for review appraisals performed under Standard 3 of the Uniform Standards of Professional Appraisal Practice;
- (b) 100% credit for a whole real estate or real property appraisal if the appraiser did 75% of the appraisal;
- (c) 10% credit under Standard 2.5 of the Uniform Standards of Professional Appraisal Practice for desk reviews where the review appraiser signs the appraisal;
- (d) 100% credit for residential form appraisals and commercial form appraisals; and
- (e) 100% credit for narrative appraisals.

2304.13 Prelicensure experience credit for teaching real estate appraisal courses shall be limited to three hundred (300) hours per year.

2304.14 Separate appraisal logs shall be maintained for each supervising appraiser if applicable.

2304.15 There is no maximum time limit during which experience may be obtained.

2305 LICENSURE BY RECIPROCITY OR ENDORSEMENT

2305.1 An applicant for a license or certificate by reciprocity shall furnish proof satisfactory to the Board that the applicant is licensed or certified and in good standing under the

laws of another State or U.S. territory with requirements that are substantially equivalent to the requirements of this chapter and the Act, and the State or U.S. territory admits real estate appraisers licensed or certified in the District in a similar manner.

2305.2 An applicant for licensure by endorsement shall furnish proof of the following:

- (a) That the applicant is currently licensed or certified and is in good standing under the laws of another state;
- (b) That the original state of licensure or certification has examination requirements which, in the opinion of the Board, were substantially equivalent at the time of licensure or certification to the requirements of the Act, and the examination has been approved by the Appraisal Foundation;
- (c) That the prelicensure or precertification requirements of the original state of licensure were substantially equivalent, at the time of licensure or certification, to the requirements of the Act.
- (d) That the applicant meets the minimum requirements for licensure in the District of Columbia set forth in § 2301 of this chapter.

2305.3 The Board may deny an application for reciprocity or endorsement if the applicant has been convicted in any jurisdiction of any crime involving any offense that bears on the fitness of the individual to be licensed or certified. A plea of nolo contendere shall be considered a conviction for purposes of this subsection.

2305.4 An applicant for a license or certificate by reciprocity or endorsement shall not have had an application denied by the Board for reasons other than failure to pass the National Uniform Appraiser Examination within 1 year prior to the date on which the application is filed.

2306 TEMPORARY PRACTICE

2306.1 Pursuant to Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USCS § 1811, and the Act, the Board shall issue an individual a temporary license if the individual completes an application provided by the Board and provides documentation that he or she meets the following requirements:

- (a) The individual is licensed or certified and in good standing under the laws of another state;
- (b) The property to be appraised by the individual is part of a federally related transaction, is located in the District, and the assignment and property are specifically identified in the application;

- (c) The appraisal assignment is of a temporary nature and is limited to one specific assignment or six months, whichever is shorter;
 - (d) Upon completion of the assignment, the temporary license is surrendered to the Board; and
 - (e) The individual pays the applicable fee identified in 17 DCMR 3500.1.
- 2306.2 The holder of a temporary license to practice in the District is subject to the applicable provisions of this chapter and the Act.
- 2306.3 The Director or the Board may revoke a temporary license without a hearing for any reason that the Board determines to be in the interest of the health or welfare of the citizens of the District, upon a minimum of five (5) days notice given in the manner prescribed by § 3318 of Chapter 33 of this title.
- 2306.4 An individual shall not hold more than one temporary license at a time.
- 2306.5 A specific appraisal assignment may include multiple properties.
- 2306.6 A temporary license holder may renew the temporary license for one additional license period by filing an application for renewal with the Board and paying the applicable renewal fee. If a temporary license holder is seeking a second or greater renewal, the Board may grant or deny the application at its discretion.
- 2307 EXAMINATION**
- 2307.1 The applicant shall file an application for licensure within twenty-four (24) months of passing the National Uniform Appraiser Examination or other prelicensure qualification examination approved by the Appraisal Qualifications Board and the Board.
- 2307.2 A candidate shall complete the educational requirements prior to sitting for the examination.
- 2307.3 A candidate who fails an examination may have the examination reviewed in accordance with the procedures, if any, of the testing service.
- 2307.4 Failure to comply with the requirements of this subsection shall require reexamination.
- 2309 TERM OF LICENSE**
- 2309.1 All licenses issued pursuant to this chapter and the Act shall expire on February 28 of each even-numbered year, constituting a license cycle.

2309.2 The Board may change the license cycle for administrative convenience.

2309.3 If the Board changes the license cycle, the term of a license that is in effect on the date of the Board's determination to change the cycle may, at the Board's discretion, be extended up to three (3) years in order to permit an orderly transition. Any extension of the license term implemented under this section shall only be made by Board resolution.

2310 LICENSE AND REGISTRATION RENEWAL

2310.1 At least sixty (60) days prior to the expiration of a license, certification, or registration, the Board shall send a renewal application by certified or registered first class mail to the holder of a license at the licensee's last known address.

2310.2 A holder of a license shall meet all of the requirements for license renewal prior to the issuance of the renewal.

2310.3 A holder of a license shall provide the Board a street address for the licensee's residence, not a post office box, and shall notify the Board in writing of any change of home or business address within thirty (30) days of the change.

2310.4 The failure of a holder of a license to receive the notice required by § 2310.1 of this section does not relieve the holder of the responsibility of renewing the license.

2310.5 A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration upon paying the required late fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.

2310.6 If a licensee fails to renew his or her license within sixty (60) days after its expiration, the license shall be deemed to have lapsed on the date of expiration and the holder shall be required to apply for reinstatement of the expired license pursuant to D.C. Official Code § 47-2853.15 (2001) and § 3308 of chapter 33 of this title and pay the required reinstatement fee. A licensee may not apply for reinstatement if the license has been expired for five (5) years or more.

2310.7 The Board shall deny a renewal application if the applicant has not completed the continuing education requirements prior to the expiration date of the license.

2310.8 Denial of an application for renewal for failure to complete the continuing education requirements shall require the applicant to complete the continuing education requirements prior to submitting an application for reinstatement pursuant to § 2622 of this chapter.

2311 CONTINUING EDUCATION REQUIREMENTS

- 2311.1 Except as provided in § 2311.2, this section shall apply to all applicants for the renewal or reinstatement of each license classification.
- 2311.2 This section shall not apply to an applicant who obtains a license during the second year of the two (2) year period preceding the date the license expires.
- 2311.3 An applicant for renewal or reinstatement of a real estate appraiser license shall be required to satisfactorily complete twenty-eight (28) classroom hours of Board approved continuing education courses within each licensing cycle.
- 2311.4 The Board will grant credit toward the classroom hour requirement only when the length of the educational offering is at least three (3) hours.
- 2311.5 The Board may approve the following continuing education activities, not to exceed (10) hours, if the activity relates to real estate appraising:
- (a) Serving as an instructor or speaker at a conference, seminar, or workshop; or
 - (b) Publication of an article in a professional journal, publication of a book or a chapter in a book, or publication of a review in a professional journal.
- 2311.6 A continuing education credit shall be valid only if it is a part of a program or activity approved by the Board.
- 2311.7 Prior to renewing his or her license, and as part of the twenty-eight hours of continuing education courses required by the Board and the Appraisal Qualifications Board, appraisers shall successfully complete either the seven-hour National USPAP Update Course or an equivalent course approved by the Board.
- 2311.8 Continuing education credit for the National USPAP Update Course shall only be awarded to licensees completing USPAP continuing education courses taught by an AQB certified instructor and at least one certified residential real property appraiser or one certified general real property appraiser.
- 2312 DOCUMENTATION OF CONTINUING EDUCATION CREDITS**
- 2312.1 Continuing education course documentation shall be filed on a form provided by the Board and shall include the following:
- (a) Sponsor;
 - (b) Title and/or description of course content;
 - (c) Dates of attendance or publication;

- (d) Location; and
- (e) Number of hours.

2313 APPROVED CONTINUING EDUCATION PROGRAMS

2313.1 The Board may approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of real estate appraising.

2313.2 The Board may approve educational offerings that include, but are not limited to, the following real estate related appraisal topics:

- (a) Ad valorem taxation;
- (b) Arbitration;
- (c) Business courses related to practice of real estate appraisal;
- (d) Construction cost estimating;
- (e) Ethics and standards of professional practice;
- (f) Land use planning, zoning and taxation;
- (g) Management, leasing, brokerage, timesharing;
- (h) Property development;
- (i) Real estate appraisal (valuations/evaluations);
- (j) Real estate law;
- (k) Real estate litigation;
- (l) Real estate financing and investment;
- (m) Real estate appraisal related computer applications;
- (n) Real estate securities and syndication;
- (o) Real property exchange; and
- (p) USPAP.

2313.3 To qualify for approval by the Board, a continuing education program shall be administered by one of the following:

- (a) Colleges or universities;
- (b) Community or junior colleges;
- (c) Real estate appraisal or real estate related organizations;
- (d) State or federal agencies or commissions;
- (e) Proprietary schools; or
- (f) Other providers approved by the Board.

2313.4 The Board may issue a list of approved continuing education programs.

2313.5 An applicant shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to attending the program.

2314 INACTIVE STATUS

2314.1 Upon application by a licensee and payment of the required fee, the Board shall place a licensee on inactive status.

2314.2 The Board shall issue a license to an individual who is on inactive status and who desires to resume practice as a real estate appraiser if the individual meets the following requirements:

- (a) Pays the required fee;
- (b) Demonstrates compliance with continuing education requirements; and
- (c) Applies for license renewal within five years of going on inactive status.

2314.3 The Board may take disciplinary action against a licensee on inactive status.

2314.4 A licensee may remain on inactive status for a period not to exceed five (5) consecutive years.

2315 DISPLAY OF LICENSE AND LICENSE NUMBERS

2315.1 The license or registration pocket card issued by the Director to each real estate appraiser or appraisal trainee shall be retained by the licensee or registrant as evidence of licensure or registration and shall be carried by the licensee or registrant during the process of appraising real property in the District.

2315.2 The license or registration number shall be prominently displayed adjacent to the signature on every appraisal.

2315.3 The license or registration issued by the Director to each real estate appraiser and appraiser trainee shall be prominently displayed in the appraiser's place of business.

2316 CHANGE OF NAME OR ADDRESS

2316.1 A licensee or registrant shall notify the Board in writing within thirty (30) days of any name change or change of business address or residence address.

2317 STANDARDS OF PROFESSIONAL PRACTICE

2317.1 A licensee or registrant shall conduct all appraisals in conformity with the current edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation, including Preamble, Ethics Provision, Competency Provision, Departure Provision, Jurisdictional Exception, Supplemental Standards, Definitions and Standards 1, 2, and 3 with all related Standard Rules, Statements on Appraisal Standards, Advisory Opinions, and indices is incorporated by reference.

2317.2 Upon the completion of an assignment, a licensee or registrant shall return to the client, upon demand, any original document, or instrument that the licensee or certificate holder possesses.

2317.3 A licensee or registrant appraising property in which he/she, any member of his/her family, any member of his/her firm, or any entity in which he/she has a financial or ownership interest, shall disclose in writing, to any client such interest in the property and his/her status as a real estate appraiser licensed or certified in the District of Columbia.

2317.4 All licensees and registrants shall comply with the Competency Rule of USPAP.

2318 NATIONAL REGISTRY FEE ASSESSMENT

2318.1 In accordance with the requirements of Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 513; 12 U.S.C. 3338), \$ 50.00 of the biennial renewal fee assessed for all licensed real estate appraisers and registered appraisal trainees shall be submitted by the Department of Consumer and Regulatory Affairs to the Appraisal Subcommittee.

2319 PAYMENT OF LICENSE AND REGISTRATION FEES

2319.1 Payment of real estate appraiser license and registration fees shall be made by cashier's check, certified check, money order, or credit card.

2320 APPRAISER RECORDKEEPING AND NOTIFICATION REQUIREMENTS

2320.1 A licensee or registrant shall retain records of appraisal, analysis, and review assignments, including oral testimony, in the following manner:

- (a) For a period of at least five (5) years after preparation of the report generated by the activity; or
- (b) If a report was generated for litigation purposes, for two (2) years after final disposition of any judicial proceeding in which testimony was given.

2320.2 A licensee or registrant shall, upon demand or request by the Board, promptly produce any document, book, or record concerning any appraisal that the licensee or certificate holder performed.

2320.3 A licensee or registrant shall inform the Board in writing within thirty (30) days of pleading guilty or nolo contendere, or being convicted or found guilty of any felony or of any misdemeanor.

2320.4 A licensee or registrant shall inform the Board in writing within thirty (30) days of the suspension, revocation, or surrender of his or her appraiser license or certificate held in any other jurisdiction.

2321 APPRAISAL INSTRUCTORS

2321.1 To be approved by the Board for prelicensing credit, a course instructor shall be an individual who has been approved as an instructor by one of the bona fide professional appraisal organizations that is a member of the Appraisal Foundation, or be a professor or instructor at a college or university which has an accredited department of real estate and economics.

2321.2 An appraiser instructor of a prelicensing (residential appraisal) course shall possess one hundred five (105) classroom hours of real estate appraisal education and 2,000 hours experience as a residential real estate appraiser within the previous five years.

2321.3 An appraiser instructor of a precertification (general appraisal) course shall possess two hundred five (205) classroom hours of real estate appraisal education and 2,000 hours experience as a general real estate appraiser within the previous five years, with at least one-half of such experience being in income property appraising.

2321.4 All Uniform Standards of Appraisal Practice (USPAP) courses taught for prelicensure or continuing education purposes shall be taught by instructors certified by the Appraiser Qualifications Board.

2323 APPRAISAL EDUCATION FUND ASSESSMENT

2323.1 An applicant for a license or registrant shall pay, in addition to the applicable license fee, the sum of one hundred dollars (\$100.00) into the Appraisal Education Fund ("Fund").

2323.2 Upon renewal of a license or registration, the licensee or registrant shall pay, in addition to the applicable renewal fee, the sum of one hundred dollars (\$100.00) into the Fund.

2324 APPRAISAL EDUCATION FUND USE FOR PROGRAMS

2324.1 The Board may use the Fund to pay that proportion of the cost of a program, as provided in §§ 2324.2, 2324.3 and 2324.4, that is equal to the percentage of the program that is directly related to establishing or maintaining an educational program to improve the competency of licensees or certificate holders.

2324.2 The Board may authorize the Fund to be used for expenditures for conferences, workshops, and educational programs for real estate appraisal officials as provided in §§ 2324.3 and 2324.4.

2324.3 For purposes of this subsection, a "real estate appraisal official" means an employee of the District of Columbia government whose duties involve the enforcement of real estate appraisal license laws including, but not limited to, board members, legal counsel, and other employees as designated by the Board.

2324.4 The Board may use the Fund to pay the entire permissible cost for a real estate appraisal official, whose duties relate in whole or in part to the enforcement of real estate appraisal license laws, to participate in a conference, workshop, or educational program that the Board determines is qualified pursuant to § 2324.5.

2324.5 In deciding whether a conference, workshop, or educational program is qualified, the Board shall consider the following:

- (a) The educational objective of the proposed program;
- (b) The length of the proposed program, the schedule of instruction, location, and anticipated number of participants;
- (c) A list of instructors and their credentials; and
- (d) Any other information about the conference, workshop, or program as the Board may require.

2325 APPRAISER TRAINEE

2325.1 The Board may issue an appraiser trainee registration to an applicant who has completed a preregistration education program that meets the following requirements:

- (a) Seventy-five (75) classroom hours of instruction that shall include fifteen (15) hours relative to the Uniform Standards of Professional Appraisal Practice (USPAP):
- (1) A classroom hour is equal to fifty (50) minutes of each sixty (60) minute segment and includes time devoted to tests which are considered to be part of the course;
 - (2) Classroom hours may only be obtained where the minimum length of the educational offering is fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering;
 - (3) Credit for the classroom hours may be obtained from the following:
 - (i) Colleges or universities;
 - (ii) Community or junior colleges;
 - (iii) Real estate appraisal or real estate related organizations;
 - (iv) State or federal agencies or commissions;
 - (v) Proprietary schools; or
 - (vi) Other providers approved by the Board or the Educational Licensure Commission.
 - (4) Qualifying education shall have been obtained within the five-year period immediately preceding application for licensure; and
 - (5) The content for courses, seminars, workshops, or conferences should include coverage of real estate appraisal related topics, such as influences on real estate value, legal considerations in appraisal, types of value, economic principles, real estate markets and analysis, valuation process, property description, highest and best use analysis, appraisal statistical concepts, sales comparison approach, site value, cost approach, income approach, valuation or partial interests, and the Uniform Standards of professional appraisal Practice (USPAP).
- 2325.2 There are no examination or experience requirements for the appraiser trainee classification.
- 2325.3 Within four (4) years of submitting his or her initial application for registration, the appraiser trainee shall pass one of the following examinations approved by the Board: the licensed residential real property appraiser examination, certified residential real

property appraiser examination, or certified general real property appraiser examination. Examination results shall expire five (5) years from the date of testing.

- 2325.4 The appraiser trainee is subject to direct supervision by a supervising Certified Residential Real Property Appraiser or a Certified General Real Property Appraiser licensed in the District and in good standing.
- 2325.5 The supervising appraiser shall be responsible for the training and supervision of the trainee by:
- (1) Accepting responsibility for appraisal reports prepared by the appraiser trainee by signing and certifying that the report complies with the Uniform Standards of Professional Appraisal Practice (USPAP);
 - (2) Reviewing the appraiser trainee reports; and
 - (3) Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines that the appraiser trainee is competent in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal practice (USPAP) for the property type.
- 2325.6 The appraiser trainee may have more than one supervising appraiser, but a licensed or certified appraiser may not have more than three (3) appraisal trainees.
- 2325.7 The appraiser trainee shall maintain an appraiser log and shall include at least the following information for each appraisal record:
- (a) Type of property;
 - (b) Date of report;
 - (c) Client name and address;
 - (d) Address of appraised property;
 - (e) Description of work performed;
 - (f) Number of work hours;
 - (g) Signature and state/jurisdiction license/certification number of the supervising appraiser; and
 - (h) Separate appraisal logs shall be maintained for each supervising appraiser.
- 2325.8 There are no continuing education requirements for the appraiser trainee classification for the first two years of registration. An appraiser trainee shall complete fourteen

(14) hours of continuing education during each calendar year beyond the second year of registration prior to applying for a license as a Real Property Appraiser, Certified Real Property Appraiser, or Certified General Real Property Appraiser.

- 2325.9 The appraiser trainee shall be entitled to obtain copies of appraisal reports that he or she prepared.
- 2325.10 The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after the final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

2326 DISCIPLINARY ACTION

- 2326.1 If the Board, subject to the applicant or licensee's right to a hearing as provided by the Act, finds that an applicant or licensee has violated any applicable provision of this chapter or the Act the Board may deny an application, revoke or suspend a license or privilege, levy a civil penalty, issue a reprimand, require a course of remediation, or refer an applicant or licensee to the Office of the Attorney General for the District of Columbia for criminal prosecution.
- 2326.2 The Board may, prior to a hearing but after an investigation, issue an order requiring any person alleged to be in violation of this chapter or the Act to cease and desist immediately from the alleged activity if the alleged activity has caused or may cause immediate or irreparable harm to the public. The Board shall deliver the order to the person affected pursuant to the provisions of D.C. Official Code § 47-2853.19 (2001).
- 2326.3 The Director may, after investigation but without a hearing, summarily suspend or restrict a licensee's license to practice pursuant to this chapter and the Act if the Director determines that the licensee's conduct presents an imminent danger to the health or safety of persons in the District.
- 2326.4 If the Director suspends or restricts a licensee's license or certification to practice pursuant to § 2326.3 of this chapter, the licensee is entitled to notice and a hearing pursuant to the provisions of D.C. Official Code § 47-2853.18 (2001).
- 2326.5 If the Board receives notification from any federal agency or federally-related lending institution that utilizes licensees or certificate holders in real property appraisals that the agency or institution has suspended a licensee from offering appraisal services on federally related transactions, the Board shall conduct an investigation into the circumstances and, if appropriate, commence disciplinary action against the licensee.

2327 PERSONS EXEMPT FROM LICENSURE OR REGISTRATION

- 2327.1 No person in the District of Columbia shall conduct an appraisal for a federally-related or non-federally related real estate or real property transaction or represent

him or herself as holding a license or registration issued by the Board unless he or she holds an active District of Columbia license or registration.

- 2327.2 A person who is certified by the Office of Tax and Revenue (OTR) to perform ad valorem tax appraisal may identify himself or herself as a "certified assessor" if the term is not used in a manner that creates the impression that the person has been licensed, certified, or registered by the Board to perform real property appraisals for federally-related or non-federally related real estate and real property transactions.
- 2327.3 A person certified to perform ad valorem tax appraisal by OTR who is not licensed, certified, or registered by the Board shall not perform a real estate or real property appraisal for any purpose other than ad valorem tax purposes.
- 2327.4 Nothing in this chapter or the Act prohibits a person who holds an active real estate broker or real estate salesperson license issued by the D.C. Board of Real Estate from giving an opinion on the price of real estate or real property in the District for the purpose of a prospective listing or sale, or when making a Competitive Market Analysis (CMA), if the opinion or CMA complies with the requirements of 17 DCMR 2609.15.
- 2327.5 Persons who determine the value of things in the District of Columbia other than real property or real estate may use the word "appraiser" to describe their activities if they do not hold themselves out or imply that they are authorized to appraise real property or real estate.

2399 DEFINITIONS

- 2399.1 As used in this chapter, the following terms have the meanings ascribed:

Act - The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01 et seq. (2001)).

Ad Valorem Tax Appraisal – an appraisal used to establish the assessed value of real estate for real property tax purposes.

Applicant – a person applying for licensure or registration.

Appraisal - the act or process of estimating the value of real estate.

Appraisal Foundation - the foundation incorporated as an Illinois Not-for-Profit Corporation on November 30, 1987, that is charged by Title XI of the Federal Financial Institutions Examination Council Act of 1978 (12 USC §3301 *et seq.*) as amended, to establish and improve uniform appraisal standards by defining, issuing, and promoting such standards.

Appraisal Qualifications Board – the Board created by the Appraisal Foundation to: establish appropriate criteria for the certification and recertification of qualified appraisers by defining,

issuing, and promoting such qualification criteria; disseminate such qualification criteria to states, governmental entities, and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

Appraisal Subcommittee- the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. § 3301 et seq.), as amended.

Appraiser Trainee – An individual who is registered as an appraiser trainee under this chapter and who is training for licensure as a Residential Real Property Appraiser, Certified Residential Real Property Appraiser, or Certified General Real Property Appraiser, and who may appraise those properties that his or her supervising appraiser is permitted to appraise.

Assignment – one or more real estate appraisals and written appraisal reports that are covered by a contract to provide an appraisal for one or more specific parcels of real estate.

Board - District of Columbia Board of Real Estate Appraisers.

Candidate – a person who has applied to take the prelicensure examination but has not filed an application for licensure.

Certified General Real Property Appraiser - an individual licensed under this chapter to appraise any type of real estate and real property.

Certified Instructor – an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

Certified Residential Real Property Appraiser – an individual licensed under this chapter to appraise any residential real estate or residential real property of one to four units regardless of transaction value or complexity. Certified Residential Real Property Appraisers may also appraise nonresidential real property with a transaction value of up to \$250,000.

Classroom hour - fifty (50) minutes out of each sixty (60) minute segment.

Client - any person for whom an appraiser performs a service.

Complex one to four family residential property appraisal – an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical as defined in the bank Holding Company Supervision manual, 1999 edition, page 10, section 2231.0.9.3. For non-federally related transaction appraisals, transaction value shall mean market value.

Department – The Department of Consumer and Regulatory Affairs or any successor agency with administrative authority over the Board.

Director - the Director of the Department of Consumer and Regulatory Affairs, or the Director's designee.

Distance Education – an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

District - the District of Columbia.

Federally Related Transaction - any real estate related financial transaction which:

1. A federal financial institutions regulatory agency engages in, contracts for or regulates; and
2. Requires the services of a licensed or certified appraiser.

Feasibility Analysis - A study of the cost-benefit relationship of an economic endeavor.

Fee Appraisal - appraisal made by an independent appraiser or firm hired by a client for a particular appraisal assignment.

Highest and Best Use - the reasonable and probable use that will support the highest present value as defined as of the effective date of the appraisal or the use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, and financially feasible.

Inactive licensee – a licensee who, pursuant to this chapter and the Act, pays the required fees and agrees not to practice as a real estate appraiser in the District of Columbia until he or she applies for reinstatement.

Licensed Residential Real Property Appraiser – a person licensed under this chapter to perform appraisals of non-complex one to four residential units having a transaction value of less than \$1,000,000, complex one to four residential units having a transaction value of less than \$250,000, or commercial real property with a transaction value of \$270,000 or less.

Mass Appraisal - the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

Office of Administrative Hearings (OAH) - The independent agency established within the executive branch of the District of Columbia government by D.C. Official Code § 2-1831.01 *et seq.* (2004 Supp.) that is responsible for the administrative adjudication of all cases under its jurisdiction.

Person - an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.

Proprietary school – a privately owned school approved by the Board that offers appraisal or appraisal related courses.

Provider – means accredited colleges, universities, junior colleges, and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards or commission; proprietary schools; or real estate appraisal or real estate related organizations.

Real Estate Appraisal or Real Estate Related Organization – any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

Real Estate or Real Property – land, including the air above and ground below, and any appurtenance or improvement thereto, as well as any interest, benefit, or right to inherit in the ownership of land.

Real Estate Consulting - advice and guidance on diversified problems in the broad field of real estate involving any or all segments of the business such as merchandising, leasing, management, planning, financing, appraising, court testimony, and other similar services. Real Estate Consulting services are often associated with evaluation services concerning matters other than value estimates relating to real property and may include activities such as the following:

| | |
|-----------------------------|-------------------------------|
| Absorption Study | Ad Valorem Tax study |
| Annexation Study | Assemblage Study |
| Assessment Study | Condominium Conversion Study |
| Cost-benefit Study | Cross Impact Study |
| Depreciation/Cost Study | Distressed Property Study |
| Economic Base Analysis | Economic Impact Study |
| Economic Structure Analysis | Eminent Domain Study |
| Feasibility Study | Highest and Best Use Study |
| Impact Zone Study | Investment Analysis Study |
| Investment Strategy Study | Land Development Study |
| Land Suitability Study | Land Use Study |
| Location Analysis Study | Market Analysis Study |
| Market Strategy Study | Market Turning Point Analysis |
| Marketability Study | Portfolio Study |
| Rehabilitation Study | Remodeling Study |
| Rental Market Study | Right of Way Study |
| Site Analysis Study | Utilization Study |
| Urban Renewal Study | Zoning Study |

Reinstatement – pursuant to D.C. Official Code § 47-2853.15 (2001), having a license or registration restored to effectiveness after the expiration date has passed.

Renewal – continuing the effectiveness of a license for another license cycle.

Review Appraisal – a report that forms an opinion as to the adequacy and appropriateness of the appraisal report that is being reviewed.

Staff Appraisal - appraisal made by an appraiser who is a salaried employee of a regulated institution.

Substantially Equivalent – any educational course or seminar, experience, or examination taken in this or another jurisdiction that is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and the Act.

Supervising Appraiser – any individual holding a license issued by the Real Estate appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

Transaction Value – the monetary amount of a transaction that may require the services of a certified or licensed appraiser for completion. Transaction value is not always equal to the market value of the real property interest involved.

Uniform Standards of Professional Appraisal Practice – those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports (12 U.S.C. § 3301 et seq.), as amended.

Valuation – an estimate or opinion of the value of real property.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendment to Chapter 63 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of these amendments is to clarify the educational and training requirements for occupational therapists, occupational therapy assistants and occupational therapy students. These regulations were originally published on October 21, 2005 at 52 DCR 9428. Numerous comments were received; many of the suggested changes have been incorporated.

Chapter 63 (Occupational Therapy) of Title 17 (Business, Occupations & Professions) (May 1990) is amended as follows:

Section 6302.1 is amended to read as follows:

- 6302.1 Except as otherwise provided in this chapter, an applicant for a license to practice occupational therapy shall furnish proof satisfactory to the Board, in accordance with § 504(g) (1) of the Act, D.C. Official Code § 3-1205.04(g) (1), that the applicant has done the following:
- (a) Has successfully completed an educational program for occupational therapists that is accredited by the Accreditation Council for Occupational Therapy Education (ACOTE); and
 - (b) Has successfully completed a period of supervised fieldwork experience required by the recognized educational institution where the applicant fulfilled his or her academic requirements.

Section 6302.2 is amended to read as follows:

- 6302.2 Except as provided in § 6303, an applicant for a license as an occupational therapy assistant shall furnish proof satisfactory to the Board, in accordance with § 504 (f) (2) of the Act, D.C. Official Code § 3-1205.04(g)(3)(A) (2001), that the applicant has done the following:
- (a) Has successfully completed an educational program for occupational therapy assistants, in an educational program, accredited by ACOTE; and
 - (b) Has successfully completed a period of supervised fieldwork

experience required by the recognized educational institution where the applicant fulfilled his or her academic requirement

6302.3 [REPEALED]

Sections 6303.1 through 6303.4 are amended to read as follows:

6303.1 The Board may grant a license to practice to an applicant who has his or her exam scores submitted from the National Board for Certification in Occupational Therapy (NBCOT) to the Board and who has completed an educational program in a foreign country whose program:

(a) Is approved by the World Federation of Occupational Therapists; and

(b) Is certified by National Board for Certification in Occupational Therapy (NBCOT).

6303.2 In lieu of meeting the requirements of § 6302.1 (a) an applicant for licensure as an occupational therapist shall submit evidence of successful completion of the occupational therapy certification examination developed by NBCOT for occupational therapists, to the Board.

6303.3 In lieu of meeting the requirements of § 6302.2 (a) an applicant for licensure as an occupational therapy assistant shall submit evidence of successful completion of the occupational therapy assistant certification examination developed by NBCOT for occupational therapy assistants, to the Board.

6303.4 An applicant shall arrange for the evaluation required by § 6303.2 or § 6303.3 to be sent directly from NBCOT to the Board.

6303.5 [REPEALED]

6303.6 [REPEALED]

Section 6304.1 is amended to read as follows:

6304.1 To qualify for licensure as an occupational therapist or occupation therapy assistant, the applicant shall pass the certification examination as developed by the NBCOT.

Section 6304.2 is amended to read as follows:

6304.2 The passing score on the national examinations shall be the passing score established by NBCOT.

6304.3 [REPEALED]

Section 6304.4 is amended to read as follows:

6304.4 An applicant shall submit a completed application to the Board and arrange for examination results to be sent by NBCOT, directly to the Board.

A new section 6305 is added to read as follows:

6305 SCOPE OF PRACTICE FOR OCCUPATIONAL THERAPISTS

6305.1 An occupational therapist shall exercise sound judgment and provide adequate care within the practice when using methods that include but are not exclusive of the following American Occupational Therapy Association (OTA) standards for the scope of practice:

- (a) Establishment, remediation or restoration of skill or ability in a client;
- (b) Compensation, modification, or adaptation of activity or environment to enhance performance;
- (c) Maintenance and enhancement of capabilities without which performance in everyday life would decline;
- (d) Health and wellness promotion to enable or enhance performance in everyday life activities; and
- (e) Prevention of barriers to performance, including disability prevention.

6305.2 An occupational therapist shall exercise sound judgment when evaluating factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation. These factors may include:

- (a) Body functions and body structures;
- (b) Habits, routines, roles, and behavior patterns;
- (c) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance; and
- (d) Performance skills including motor, process, and communication or interaction skills.

6305.3

An occupational therapist shall exercise sound judgment and provide adequate care to a client when administering interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure, and social participation, which include the following:

- (a) Therapeutic use of occupations, exercises, and activities;
- (b) Training in self-care, self management, home management, and community work reintegration;
- (c) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions, and behavioral skills;
- (d) Therapeutic use of self including one's personality, insights, perceptions, and judgments as part of the therapeutic process;
- (e) Education and training of individuals, involved in the care of the client;
- (f) Care coordination, case management, and transition services;
- (g) Consultative services to groups, programs, organizations, or communities;
- (h) Modification of environments and adaptation of processes, including the application of ergonomic principles;
- (i) Assessment, design, fabrication, application, fitting and training in assistive technology, adaptive devices and orthotic devices, and training in the use of prosthetic devices;
- (j) Assessment, recommendation, and training in techniques to enhance mobility including wheelchair management;
- (k) Driver rehabilitation and community mobility;
- (l) Management of feeding, eating, and swallowing to enable eating and feeding performance; and
- (m) Application of physical agent modalities, and use of a range of specific therapeutic procedures to enhance performance skills.

Section 6306.4 is amended to read as follows:

6306.4 Practitioners applying for license renewal shall complete contact hours of qualified activities for maintaining continuing competence during the two (2) year period preceding the date the license expires in the following manner:

- (a) Occupational therapist shall complete a minimum of twenty-four (24) contact hours; and
- (b) Occupational therapy assistants shall complete a minimum of twelve (12) contact hours.

6306.5 [REPEALED]

Sections 6306.6 through 6306.13 are amended to read as follows:

6306.6 An applicant for reactivation of a license to practice as an occupational therapist who does not hold an active license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Twelve (12) contact hours in an approved continuing competence program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours;
- (b) Twenty-four (24) of those contact hours within two (2) years prior to the date the application is submitted; and
- (c) One hundred and sixty (160) hours of supervised clinical training within the two (2) months prior to the date the application is submitted.

6306.7 An applicant who holds an active license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Twelve (12) contact hours in an approved continuing competence program for each year that the applicant was not licensed up to a maximum of sixty (60) hours; and
- (b) Twenty-four (24) of those contact hours within two (2) years prior to the date the application is submitted.

6306.8 An applicant for reinstatement of a license or reactivation of an inactive license to practice as an occupational therapist who does not hold an active license in any jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Twelve (12) contact hours in an approved continuing education program for each year that the applicant was not licensed up to a maximum of sixty (60) hours;
- (b) Twenty-four (24) contact hours within two (2) years prior to the date the applicant is submitted; and
- (c) One hundred and sixty (160) hours of supervised clinical training within two (2) months prior to the date the application is submitted.

6306.9 An applicant for reinstatement of a license or reactivation of an inactive license to practice as an occupational therapist who holds an active license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Twelve (12) contact hours in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of sixty (60) hours; and
- (b) Twenty-four (24) hours within two (2) years prior to the date the application is submitted.

6306.10 An applicant for reactivation of a license to practice as an occupational therapy assistant who does not hold an active license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Six (6) contact hours in an approved continuing education program for each year that the applicant was not licensed, up to a maximum of thirty (30) hours;
- (b) Twelve (12) contact hours within two (2) years prior to the date the application is submitted; and
- (c) One hundred and sixty (160) hours of supervised clinical training within the two (2) months prior to the date the application is submitted.

6306.11 An applicant who holds an active license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Six (6) contact hours in an approved continuing competence program for each year that the applicant was not licensed, up to a maximum of thirty (30) hours; and
- (b) Twelve (12) of those contact hours within two (2) years prior to the

date the application is submitted.

6306.12 An applicant for reinstatement of an inactive license to practice as an occupational therapy assistant who does not hold a current license in any other jurisdiction, shall submit proof pursuant to § 6307 of having completed the following:

- (a) Six (6) contact hours in an approved continuing competence program for each year that the applicant was not licensed up to a maximum of thirty (30) hours;
- (b) Twelve (12) contact hours within two (2) years prior to the date the application is submitted; and
- (c) One hundred and sixty (160) hours of supervised clinical training within the two (2) months prior to the date the application is submitted.

6306.13 An applicant for reinstatement of an inactive license who holds a current license in any other jurisdiction shall submit proof pursuant to § 6307 of having completed the following:

- (a) Six (6) contact hours in an approved continuing competence program for each year that the applicant was not licensed up to a maximum of thirty (30) hours;
- (b) Twelve (12) contact hours within two (2) years prior to the date the application is submitted.

New section 6306.14 through 6306.24 are added to read as follows:

6306.14 An applicant who applies to practice as an occupational therapist five (5) or more years after his or her license has expired, shall submit proof pursuant to § 6307 of the following:

- (a) Completion of sixty (60) contact hours of continuing competence credit prior to submission of the application with twenty-four (24) of the sixty (60) contact hours having been completed within the two (2) year period immediately prior to the date the application is submitted; and
- (b) Completion of one hundred sixty (160) hours of supervised clinical training within the two (2) months prior to the date the application is submitted.

- 6306.15 An applicant who applies to practice as an occupational therapy assistant five (5) or more years after his or her license has expired, shall submit proof pursuant to § 6307 of the following:
- (a) Completion of thirty (30) contact hours of continuing competence credit prior to submission of the application with twelve (12) of the thirty (30) contact hours having been completed within the two (2) year period immediately prior to submission of the application; and
 - (b) Completion of one hundred sixty (160) hours of supervised clinical training within the two (2) months prior to licensure.
- 6306.16 An applicant under this section shall prove completion of required education credits by submitting with the application the following information with respect to each program:
- (a) The name and address of the sponsor of the program;
 - (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
 - (c) The dates on which the applicant attended the program;
 - (d) The hours of credit claimed; and
 - (e) Verification by the sponsor of the applicant's completion, by signature or stamp of the sponsor.
- 6306.17 An applicant for renewal of a license who fails to submit proof of having completed continuing competence requirements by the date the license expired may renew the license up to sixty (60) days after expiration by submitting the proof pursuant to § 63036.9 and by paying the required additional late fee.
- 6306.18 Upon submitting proof and paying the late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.
- 6306.19 If an applicant for renewal of a license fails to submit proof of completion of continuing competence requirements or pay the late fee within sixty (60) days after the expiration of the applicant's license, the license shall be considered to have lapsed on the date of expiration.

- 6306.20 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. As used in this section, "good cause" includes the following:
- (a) Serious and protracted illness of the applicant; or
 - (b) The death or serious and protracted illness of a member of the applicant's immediate family.
- 6306.21 If the license of an occupational therapist or occupational therapy assistant lapses while serving in the military whenever the United States is engaged in active military operations against any foreign power or hostile force, and the required continuing competence hours were not earned during the earning period, the licensee shall be required to complete the required continuing competence hours needed no later than six (6) months after discharge from active service, return to inactive military status, or return to the United States from an active war zone.
- 6306.22 The continuing competence contact hours completed shall not be used for the next licensing period.
- 6306.23 The continuing competence contact hours for the next licensing period not be prorated.
- 6306.24 Practitioners who are licensed to practice in a jurisdiction other than the District shall meet the requirements of this section in order to obtain licensure in the District.

Sections 6307.2 through 6307.6 are amended to read as follows:

- 6307.2 The Board shall approve continuing competence programs and activities that are relevant to the practice or education of occupational therapists and occupational therapy assistants that document the following:
- (a) Current subject matter with course description;
 - (b) Content focus;
 - (c) Learning outcomes;
 - (d) Target audience; and
 - (e) Satisfactory completion of the course by the course participant.

- 6307.3 The Board shall approve the following types of activities provided that they are consistent with provisions of these regulations:
- (a) Activities sponsored by the state or local occupational therapy organizations;
 - (b) Activities sponsored by the American Occupational Therapy Association (AOTA), the American Physical Therapy Association (APTA), the American Speech-Language-Hearing Association (ASHA);
 - (c) Activities sponsored by AOTA approved providers;
 - (d) Activities sponsored by an accredited healthcare facility; or
 - (e) Activities sponsored by an accredited college or university.
- 6307.4 The Board may issue an update to a list of approved continuing competence programs.
- 6307.5 Any course or activity that does not meet the licensing requirements of § 6307.3 shall not be approved by the Board unless the license had prior approval from the Board, at least thirty (30) days before the course.
- 6307.6 The Board may approve the following continuing competence activities by an applicant:
- (a) Serving as an instructor or speaker at a conference;
 - (b) Serving as an instructor at a seminar, workshop, or in-service training;
 - (c) Serving as a clinical instructor for students of occupational therapy; and
 - (d) Participation in research as a principal investigator or research assistant.

Section 6308.4 is amended to read as follows:

- 6308.4 The Board may grant continuing competence credit to an applicant who serves as an author of a self-study article or series or an instructor or speaker at a program or for preparation and presentation time of an academic course, peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or web-based course subject to the following restrictions:

- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time or twice the amount of contact hours awarded for participants;
- (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement;
- (c) If an applicant had previously received credit in connection with a particular presentation, the Board shall not grant credit in connection with a subsequent presentation unless it involves either a different or a substantially modified program; and
- (d) The presentation shall have been completed during the period for which credit is claimed and includes documentation of the following:
 - (1) A copy of the official program or syllabus;
 - (2) The presentation title;
 - (3) The date of the presentation;
 - (4) The hours of the presentation;
 - (5) The type of audience addressed; and
 - (6) A verification of attendance signed by the sponsor.

Section 6308.7 is amended to read as follows:

6308.7 The Board may grant an application for renewal up to six (6) contact hours for the renewal period, for participation as a primary clinical fieldwork educator for Level II occupational therapy or occupational assistant fieldwork students with the following documentation:

- (a) Name of student as verified by the school;
- (b) Name of the school;
- (c) Dates of the fieldwork; and
- (d) Signature page of student evaluation excluding evaluation scores and comments on student.

Sections 6308.9 through 6308.10 are amended to read as follows:

6308.9 The Board may grant continuing education credit to an applicant for renewal who participates in Board or committee work with agencies or organizations in professionally related areas to promote and enhance the practice of occupational therapy up to three (3) contact hours for one year of involvement for a minimum of eighteen (18) hours. The applicant shall provide the following documentation:

- (a) Name of the committee, board, agency or organization;
- (c) Purpose for service;
- (d) Description of duties and roles; and
- (e) Validation of service by an officer or representative of the organization.

6308.10 The Board may grant an applicant for renewal who is able to demonstrate participation in research, either as a principal investigator or as a research assistant, six (6) continuing competence credits.

A new section 6308.11 is added to read as follows:

6308.11 The Board may request proof of a licensee's completion of continuing competence activities at the completion of a renewal period. A licensee shall:

- (a) Maintain the required proof of completion for each continuing competence activity as specified in these regulations; and
- (b) Retain documentation of continuing competence activity for a minimum of two (2) years following the last day of the license renewal period for which the continuing competence activities were earned.

A new section 6309 is added to read as follows:

6309 SUPERVISION

6309.1 An occupational therapist shall exercise sound judgment and provide adequate care in the performance of duties in accordance with nationally recognized standards of practice while treating clients or supervising the treatment of clients.

6309.2 An occupational therapist shall be responsible for managing all aspects of the occupational therapy care of each client. An occupational therapist shall provide the following:

- (a) The initial evaluation for each client and all supporting documentation;
- (b) Periodic reevaluation for each client and all supporting documentation; and
- (c) The documented discharge of the client, including the response to the intervention at the time of discharge.

6309.3 An occupational therapist may supervise an occupational therapy assistant in accordance with § 6310.6 and also through telephonic or electronic communication means as determined by the level of skill and competence of the occupational therapy assistant as determined by criteria set forth in § 6310.7.

6309.4 An occupational therapist shall maintain immediate supervision of an occupational therapy aide except for activities of daily living skills where supervision may be generated to maintain client privacy.

6309.5 An occupational therapist shall:

- (a) Delegate only those functions to an aide that do not require education or training in occupational therapy for treatment or non-treatment related activities; and
- (b) Not permit an occupational therapy aide under his or her supervision to provide independent care of a client or document the client file at any time.

6309.6 An occupational therapist shall:

- (a) Directly supervise all students training to be occupational therapists or occupational therapy assistants;
- (b) Not permit a student to work independently with a client until such time as the student has demonstrated competency in practice under general supervision; and
- (c) Countersign all documentation drafted by students.

6309.7 An occupational therapy assistant may directly supervise occupational therapy assistant students.

6309.8 An occupational therapist or occupational therapy assistant supervising a student shall be responsible for all of the actions performed by the student

within the scope of practice during the time of supervision and shall be subject to disciplinary action for any violation of the Act or this chapter by the person supervised.

A new section 6310 is added to read as follows:

**6310 SUPERVISION OF PRACTICE FOR OCCUPATIONAL
THERAPY ASSISTANTS**

- 6310.1 An occupational therapy assistant shall exercise reasonable judgment and provide adequate care in the performance of duties in accordance with nationally recognized standards of practice and standards on file with the facility.
- 6310.2 An occupational therapy assistant may only practice under the supervision of a licensed occupational therapist, who is authorized to practice in the District of Columbia.
- 6310.3 An occupational therapy assistant shall assist in the collection and some of the documentation of client information pertaining to the evaluation and treatment of a client. The extent of this involvement shall be based on the demonstrated competency of the occupational therapy assistant. This demonstrated competency shall be documented and maintained on file by the supervising occupational therapist.
- 6310.4 An occupational therapy assistant shall not supervise another occupational therapy assistant, but may supervise an occupational therapy student (Level I Fieldwork training only) or an occupational therapy assistant in training (both Level I or Level II Fieldwork training).
- 6310.5 An occupational therapist may supervise an occupational therapy assistant if he or she meets the competency standards that are outlined in § 6310.7 while the occupational therapy assistant is under general supervision.
- 6310.6 An occupational therapist shall provide the following:
- (a) Supervision of an occupational therapy assistant prior to initiating treatment programs and before planned discharges for clients;
 - (b) An initial and, at a minimum, bimonthly direction to the occupational therapy assistant; and
 - (c) Documentation for verification of supervision and direction.

6310.7 A supervising occupational therapist shall delegate duties and responsibilities for the care of clients to the occupational therapy assistant with consideration given to the following:

- (a) The level of skill shown by the occupational therapy assistant;
- (b) The ability to use identified intervention in a safe and effective manner;
- (c) Experience the assistant and work setting demands; and
- (d) The complexity and stability of the client population to be treated.

6310.8 An occupational therapy assistant shall immediately inform the supervising occupational therapist and discontinue treatment if the procedure appears to be harmful to the client.

6310.9 An occupational therapy assistant may provide immediate supervision to an occupational therapy aide while the aide is discussing or assisting in the care and treatment of a client.

6310.10 An occupational therapy assistant shall only delegate tasks to an occupational therapy aide for which the aide has been trained and is able to demonstrate competency.

6311 [REPEALED]

A new section 6312 is added to read as follows:

6312 LAWFUL PRACTICE

6312.1 An occupational therapist or occupational therapy assistant licensed to practice in the District of Columbia shall adhere to the Code of Ethics established by the AOTA for the practice of occupational therapy as it may be amended from time to time.

6312.2 An occupational therapist may purchase, store and administer topic and aerosol medications as part of the practice of occupational therapy as defined herein, as long as the purchasing, store and administration of these medications are carried out pursuant to all laws and regulations of the Federal Government and the District of Columbia.

6312.3 An occupational therapist shall use the letters "OT", "OTR", "LOT", "OTR/L" or any other similar title or description in connection with the occupational therapist's name or place of business to denote licensure pursuant to the Act.

6312.4 Only a licensed occupational therapist shall be advertised or otherwise promoted by a business providing and billing for occupational therapy services pursuant to the Act.

6312.5 An occupational therapy assistant shall use the letter "OTA", "COTA", "OTA/L", "COTA/L", or any other similar title or description in connection with the occupational therapy assistant's name or place of business to denote licensure pursuant to the Act.

6399 DEFINITIONS

6399.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Applicant – a person applying for a license to practice as an occupational therapist, or to practice as an occupational therapy assistant, under this chapter, as the context requires.

Board – the Board of Occupational Therapy, established by § 206 of the Act, D.C. Official Code § 3-1202.06 (2001).

Contact hour – means fifty (50) minutes of continuing education credit.

Direct supervision – supervision in which an occupational therapist is available on the premises and within vocal communication either directly or by a communication device.

General supervision – supervision in which the supervisor is available on the premises or by communication device at the time the supervisee is practicing.

Immediate supervision – oversight of an individual through face-to-face observations and in physical proximity to the individual being supervised.

Level I Fieldwork – Enrichment of didactic coursework through direct observation and participation in selected aspects of the occupational therapy process to enable students to develop a basic comfort level with and understanding of the needs of the clients.

Level II Fieldwork – Development of competent entry-level, general occupational therapists and occupational therapy assistants through exposure to in-depth experiences in delivering occupational therapy services to a variety of clients.

Occupational therapist – a person licensed to practice occupational therapy under the Act.

Occupational therapy – means the therapeutic use of every life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings which are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well being, and quality of life.

Occupational therapy assistant – a person licensed to practice as an occupational therapy assistant under the Act.

6399.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference and apply to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5 p.m., Monday through Friday, excluding holidays.

D.C. OFFICE OF PERSONNEL

NOTICE OF PROPOSED RULEMAKING

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with section 502 of Title V of the Omnibus Public Safety Agency Reform Amendment Act of 2004 (Act), effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031) (2005 Supp.), hereby gives notice of the intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These rules would amend Chapter 16, General Discipline and Grievances, of Title 6 of the District of Columbia Municipal Regulations, to add language implementing the provisions of the Act. The Act provides that, with some noted exceptions, no corrective or adverse action against an employee of the Fire and Emergency Medical Services Department (FEMSD) or Metropolitan Police Department (MPD), including firefighters and police officers, respectively, shall be commenced more than ninety (90) days, not including Saturdays, Sundays, or legal holidays, after the date that the FEMSD or MPD knew or should have known of the act or occurrence allegedly constituting cause for the corrective or adverse action. Accordingly, this rulemaking would amend section 1601 of the chapter to add a new section 1601.9 implementing the provisions of the Act. Additionally, and at the request of the Chief, FEMSD, section 1601.5 of the chapter is being amended to add language stating that the provisions of the chapter shall apply to uniformed members of the FEMSD at the rank of Battalion Fire Chief and above who are in the Career Service. Upon adoption, these rules will amend Chapter 16, General Discipline and Grievances, of Title 6 of the District of Columbia Municipal Regulations, published at 34 DCR 1845 (March 20, 1987) and amended at 37 DCR 8297 (December 21, 1990), 46 DCR 7208 (September 10, 1999), 47 DCR 7094 (September 1, 2000), 49 DCR 11781 (December 27, 2002), 50 DCR 3185 (April 25, 2003), and 51 DCR 7951 (August 13, 2004).

CHAPTER 16

GENERAL DISCIPLINE AND GRIEVANCES

Section 1601.5 is amended to read as follows:

- 1601.5 (a) Any procedures for handling corrective or adverse actions involving uniformed members of the Metropolitan Police Department, or of the Fire and Emergency Medical Services Department (FEMSD) at the rank of Captain or below provided for by law, or by regulations of the respective departments in effect on the effective date of these regulations, including but not limited to procedures involving trial boards, shall take precedence over the provisions of this chapter to the extent that there is a difference.

- (b) The provisions of this chapter shall apply to uniformed members of the FEMSD at the rank of Battalion Fire Chief and above who are in the Career Service.

A new section 1601.9 is added to read as follows:

1601.9 Notwithstanding any other provision of this chapter, and in accordance with the provisions of section 502 of Title V of the Omnibus Public Safety Agency Reform Amendment Act of 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031) (2005 Supp.), the following will apply to all corrective and adverse actions against any employee, uniformed and non-uniformed, of the Fire and Emergency Medical Services Department (FEMSD) or Metropolitan Police Department (MPD):

- (a) No corrective or adverse action against any employee, uniformed and non-uniformed, of the FEMSD or MPD will be commenced more than ninety (90) days, not including Saturdays, Sundays, or legal holidays, after the date that the FEMSD or MPD knew or should have known of the act or occurrence allegedly constituting cause for the corrective or adverse action.
- (b) If the act or occurrence allegedly constituting cause for the corrective or adverse action is the subject of a criminal investigation by the MPD, the Office of the United States Attorney for the District of Columbia, or the Office of the Attorney General for the District of Columbia, or an investigation by the Office of Police Complaints, the ninety-day (90-day) period for commencing a corrective or adverse action under section 1601.9 (a) of this section shall be tolled until the conclusion of the investigation.

Comments on these proposed regulations should be submitted, in writing, to Ms. Lisa R. Marin, SPHR, Director of Personnel, 441 4th Street, N.W., Suite 300S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION
PANEL ON RATES AND RULES
CORRECTED**

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(I) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986, (D.C. Law 6-97; D.C. Official Code §§ 50-307(b) (1)(I), and 50-308(b)), hereby gives notice of its proposed rulemaking action taken December 14, 2005, to add § 501.5 to Chapter 5 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). Initially, the proposed rulemaking was published in the January 20, 2006 edition of the D.C. Register, noting that the proposed rulemaking action was adopted on October 12, 2005 instead of the actual date of adoption. The proposed rulemaking adds a penalty provision for failure to timely file information required in §§ 501.1 and 501.2 of section 501 of this chapter. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following section in 31 DCMR Chapter 5 is added as follows:

501 FILING REQUIREMENTS

501.5 Any taxicab association or company that fails to timely file information as required in §§ 501.1 and 501.2 of this section shall be subject to a civil fine of two hundred and fifty dollars (\$250).

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 05-100-TS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend Chapter XX of the Vehicle and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From 14 Street to 22nd Street N.W., on both sides, "No Parking, Loading Zone, 7:00 a.m. - 9:30 a.m./ 4:00 p.m. - 6:30 p.m., Monday - Friday, Commercial Vehicles Only";

From a point approximately 127 feet west of 13th Street to a point approximately 152 feet west of 13th Street, on the north side, "No Parking, Entrance";

From a point approximately 293 feet west of 13th Street to a point approximately 323 feet west of 13th Street, on the north side, "No Parking, Entrance", 7:00 a.m. - 6:30 p.m., Monday - Friday";

From a point approximately 426 feet west of 13th Street to a point approximately 462 feet west of 13th Street, on the north side, "No Parking, Entrance";

From a point approximately 519 feet west of 13th Street to a point approximately 558 feet west of 13th Street, on the north side, "No Parking, Entrance";

From a point approximately 40 feet west of 14th Street to a point approximately 78 feet west of 14th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m. - 4:00 p.m., Monday - Saturday";

From a point approximately 110 feet west of 15th Street to a point approximately 137 feet west of 15th Street, on the north side, "No Parking, Entrance, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 39 feet west of 17th Street to a point approximately 133 feet west of 17th Street, on the north side, "No Parking, Loading Zone, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 127 feet west of Connecticut Avenue to a point approximately 151 feet west of Connecticut Avenue, on the north side, "No Parking, Entrance, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 225 feet west of 18th Street to a point approximately 248 feet west of 18th Street, on the north side, "No Parking, Entrance, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 248 feet west of 18th Street to a point approximately 278 feet west of 18th Street, on the north side, "No Parking, Loading Zone, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 426 feet east of 18th Street to a point approximately 463 feet east of 18th Street, on the south side, "No Parking, Entrance";

From a point approximately 226 feet east of 18th Street to a point approximately 281 feet east of 18th Street, on the south side, "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 70 feet east of 18th Street to a point approximately 130 feet east of 18th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 211 feet east of 19th Street to a point approximately 244 feet east of 19th Street, on the south side, "No Parking, Entrance, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 77 feet east of 19th Street to a point approximately 100 feet east of 19th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m. – 4:00 p.m., Monday – Friday";

From a point approximately 21 feet east of 19th Street to a point approximately 77 feet east of 19th Street, on the south side, "No Parking, Entrance";

From a point approximately 68 feet east of 20th Street to a point approximately 110 feet east of 20th Street, on the south side, "No Parking, Entrance";

From a point approximately 219 feet west of 19th Street to a point approximately 236 feet west of 19th Street, on the north side, "No Parking, Entrance".

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 179 feet west of 12th Street to a point approximately 217 feet west of 12th Street, on the north side, "Two Hour Parking, 7:00 a.m. – 6:30 p.m., Monday-Friday";

From a point approximately 32 feet west of 13th Street to a point approximately 71 feet west of 13th Street, on the north side, "Two Hour Parking, 7:00 a.m. – 6:30 p.m., Monday- Friday";

From a point approximately 37 feet west of 15th Street to a point approximately 75 feet west of 15th Street, on the north side, "Two Hour Parking, 7:00 a.m. – 6:30 p.m., Monday– Friday";

From a point 40 feet west of 16th Street to a point approximately 88 feet west of 16th Street, on the north side, "Two Hour Parking, 9:30 a.m. – 4:00 p.m., Monday– Friday";

From a point approximately 46 feet west of Connecticut Avenue to a point approximately 82 feet west of Connecticut Avenue, on the north side, "Two Hour Parking, 9:30 a.m. – 4:00 p.m., Monday–Friday";

From a point approximately 36 feet west of 19th Street to a point approximately 96 feet west of 19th Street, on the north side, "Two Hour Parking, 7:00 a.m. – 6:30 p.m., Monday-Friday";

From a point approximately 31 feet east of 18th Street to a point approximately 70 feet east of 18th Street, on the south side, "Two Hour Parking, 9:30 a.m. – 4:00 p.m., Monday– Friday".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.13, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 60 feet west of 14th Street to a point approximately 118 feet west of 14th Street, on the north side, "No Parking, Entrance, 6:30 p.m. – 11:59 p.m., Daily";

From a point approximately 163 feet east of 17th Street to a point approximately 212 feet east of 17th Street, on the south side, "No Parking, Entrance, 6:30 p.m. – 11:59 p.m., Daily";

From a point approximately 46 feet west of 18th Street to a point approximately 105 feet west of 18th Street, on the north side, "No Parking, Entrance, 6:30 p.m. – 11:59 p.m., Daily".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.14, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 179 feet west of 12th Street to a point approximately 217 feet west of 12th Street, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 32 feet west of 13th Street to a point approximately 71 feet west of 13th Street, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 37 feet west of 15th Street to a point approximately 75 feet west of 15th Street, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 40 feet west of 16th Street to a point approximately 88 feet west of 16th Street, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 46 feet west of Connecticut Avenue, to a point approximately 82 feet west of Connecticut Avenue, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 36 feet west of 19th Street to a point approximately 96 feet west of 19th Street, on the north side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 21 feet east of 19th Street, to a point approximately 77 feet east of 19th Street, on the south side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 31 feet east of 18th Street, to a point approximately 70 feet east of 18th Street, on the south side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

From a point approximately 53 feet east of 17th Street, to a point approximately 99 feet east of 17th Street, on the south side "No Parking, Loading Zone, 7:00 a.m. – 6:30 p.m., Monday – Friday";

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.2, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 225 feet west of 18th street to a point approximately 278 feet west of 18th Street, on the north side, "One Hour Parking, 7:00 a.m. – 6:30 p.m., Monday - Friday".

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 127 feet west of 13th Street to a point approximately 152 feet west of 13th Street, on the north side, "Two Hour Parking, 7:00 a.m.–6:30 p.m., Monday–Friday";

From a point approximately 293 feet west of 13th Street to a point approximately 323 feet west of 13th Street, on the north side, "Two Hour Parking, 7:00 a.m.–6:30 p.m., Monday–Friday";

From a point approximately 426 feet west of 13th Street to a point approximately 462 feet west of 13th Street, on the north side, "Two Hour Parking, 7:00 a.m.–6:30 p.m., Monday–Friday";

From a point approximately 519 feet west of 13th Street to a point approximately 558 feet west of 13th Street, on the north side, "Two Hour Parking, 7:00 a.m.–6:30 p.m., Monday–Friday";

From a point approximately 110 feet west of 15th Street to a point approximately 137 feet west of 15th Street, on the north side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 219 feet west of 19th Street to a point approximately 236 feet west of 19th Street, on the north side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 68 feet east of 20th Street to a point approximately 110 feet east of 20th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 211 feet east of 19th Street to a point approximately 244 feet east of 19th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 70 feet east of 18th Street to a point approximately 130 feet east of 18th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 226 feet east of 18th Street to a point approximately 281 feet east of 18th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 426 feet east of 18th Street to a point approximately 463 feet east of 18th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 53 feet east of 17th Street to a point approximately 99 feet east of 17th Street, on the south side, "Two Hour Parking, 7:00 a.m.-6:30 p.m., Monday-Friday".

Title 18 DCMR, Section 4035, "NO STOPPING" RESTRICTIONS, Subsection 4035.1, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 39 feet west of 17th Street to a point approximately 185 feet west of 17th Street, on the north side, "No Stopping Anytime".

Title 18 DCMR, Section 2406, PARKING PROHIBITED BY POSTED SIGN, Subsection 2406.12, (a) Northwest Section, is amended by adding the following from the list of locations where parking is to be limited as specified:

K Street, N.W.

From a point approximately 40 feet west of 14th Street to a point approximately 78 feet west of 14th Street, on the south side, "No Parking, Except Flex/Zip Car".

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket No. 05-100-TS). Copies of this proposal are available, at cost, by writing to the above address.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

DOCKET NUMBER 05-96-TS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the intent to amend Chapter 40 of the Vehicle and Traffic Regulations (18 DCMR). Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to limited as specified:

I Street, N.W.

From a point approximately 114 feet west of 12th Street to a point approximately 143 feet west of 12th Street and from a point approximately 328 feet west of 12th Street to a point approximately 350 feet west of 12th Street, on the south side, No Parking, Loading Zone, 7 a.m.-6:30 p.m., Monday-Friday”;

From a point approximately 155 feet west of 13th Street to a point approximately 207 feet west of 13th Street and from a point approximately 391 feet west of 13th Street to a point approximately 459 feet west of the 13th Street, on the south side, “No Parking, Entrance”;

From a point approximately 198 feet west of 17th Street (west) to a point approximately 256 feet west of 17th Street (west), on the north side, “No Parking, Entrance”.

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 66 feet west of 12th Street to a point approximately 105 feet west of 12th Street, on the north side, “Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday”;

From a point approximately 34 feet west of 12th Street to a point approximately 75 feet west of 12th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 349 feet west of 13th Street to a point approximately 457 feet west of 13th Street, on the north side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday";

From a point 24 feet west of Vermont Avenue to a point approximately 89 feet west of Vermont Avenue, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 31 feet west of Connecticut Avenue to a point approximately 70 feet west of Connecticut Avenue and from a point approximately 108 feet west of Connecticut Avenue to a point approximately 130 feet west of Connecticut Avenue, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 235 feet west of 17th Street (west) to a point approximately 289 feet west of 17th Street (west), on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 35 feet west of 18th Street to a point approximately 77 feet west of 18th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 30 feet west of 19th Street to a point approximately 72 feet west of 19th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

Title 18 DCMR, Section 4032, CURB LOADING ZONES, Subsection 4032.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 86 feet west of 15th Street (west) to a point approximately 457 feet west of 15th Street (west), on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.-4:00 p.m., Monday- Friday";

From a point approximately 42 feet west of 16th Street to a point approximately 397 feet west of 16th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m. - 4:00 p.m., Monday- Friday";

From a point approximately 27 feet west of 17th Street (east) to a point approximately 66 feet west of 17th Street (east), on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m. – 4:00 p.m., Monday- Friday".

From a point approximately 68 feet west of 17th Street (west) to a point approximately 198 feet west of 17th Street (west), from a point approximately 287 feet west of 17th Street (west) to a point approximately 320 feet west of 17th Street (west) and from a point approximately 413 feet west of 17th Street (west) to a point approximately 472 feet west of 17th street (west), on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.–4:00 p.m., Monday- Friday".

From a point approximately 167 feet west of 18th Street to a point approximately 435 feet west of 18th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.–4:00 p.m., Monday- Friday".

From a point approximately 162 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.- 4:00 p.m., Monday- Friday".

Title 18 DCMR, Section 4035, "NO STOPPING" RESTRICTIONS, Subsection 4035.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From 16th Street to Connecticut Avenue, on the south side, "No Stopping, 7 a.m.–6:30 p.m., Monday–Friday".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.13, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 34 feet west of 12th street to a point approximately 75 feet west of 12th Street, on the south side, "No Parking, Entrance, 6:30 p.m. - Midnight, Daily".

From a point approximately 121 feet west of 20th Street to a point approximately 155 feet west of 20th Street, on the north side, "No Parking, Entrance, 6:30 p.m. – Midnight, Daily".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.14, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

From a point approximately 121 feet west of 20th Street to a point approximately 155 feet west of 20th Street, on the north side, "No Parking, Entrance, 6:30 p.m. – Midnight, Daily".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.14, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 66 feet west of 12th Street to a point approximately 105 feet west of 12th Street, on the north side, "No Parking, Loading Zone, 7:00 a.m.–6:30 p.m., Monday–Friday".

From a point approximately 34 feet west of 12th Street to a point approximately 75 feet west of 12th Street, on the south side, "No Parking, Loading Zone, 7:00 am–6:30 p.m., Monday–Friday".

From a point approximately 24 feet west of Vermont Avenue to a point approximately 89 feet west of Vermont Avenue, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 364 feet west of 16th Street to a point approximately 406 feet west of 16th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 31 feet west of Connecticut Avenue to a point approximately 70 feet west of Connecticut Avenue, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 235 feet west of 17th Street (west) to a point approximately 289 feet west of 17th Street (west), on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 35 feet west of 18th Street to a point approximately 77 feet west of 18th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 30 feet west of 19th Street to a point approximately 72 feet west of 19th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday – Friday".

Title 18 DCMR, Section 4022, BUS STOPS, BUS ZONES AND BUS STANDS, Subsection 4022.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 114 feet west of 12th Street to a point approximately 143 feet west of 12th Street and from a point approximately 328 feet west of 12th Street to a point approximately 350 feet west of 12th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday".

From a point approximately 155 feet west of 13th Street to a point approximately 207 feet west of 13th Street and from a point approximately 391 feet west of 13th Street to a point approximately 459 feet west of 13th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday".

From a point approximately 86 feet west of 15th Street (west) to a point approximately 457 feet west of 15th Street (west), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 42 feet west of 16th Street to a point approximately 397 feet west of 16th Street, on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 38 feet west of 16th Street to a point approximately 364 feet west of 16th Street and from a point approximately 406 feet west of 16th Street to a point approximately 487 feet west of 16th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 27 feet west of 17th Street (east) to a point approximately 66 feet west of 17th Street (east), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 68 feet west of 17th Street (west) to a point approximately 472 feet west of 17th Street (west), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 167 feet west of 18th Street to a point approximately 435 feet west of 18th Street, on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 162 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

Title 18 DCMR, Section 4035, "NO STOPPING" RESTRICTIONS, Subsection 4035.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

From 16th Street to Connecticut Avenue, on the south side, "No Stopping, 7-9:30 a.m.–4-6:30 p.m., Monday- Friday".

From a point approximately 108 feet west of Connecticut Avenue to a point approximately 130 feet west of Connecticut Avenue, on the south side, "No Stopping Anytime".

From a point approximately 264 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "No Stopping Anytime".

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty days (30) days after the publication of this notice in the D.C. Register, with the Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009 (Attention: Docket 05-96-TS. Copies of this proposal are available, at cost, by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
ZC CASE NO. 04-33
(Text Amendment – Inclusionary Zoning)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 and 6-641.07 (2001)), hereby gives notice of its intent to amend the Zoning Regulations (Title 11 DCMR) by adding a new Chapter 26 to establish an Inclusionary Zoning Program in the District of Columbia. The proposed rules set forth the minimum amount of affordable housing that must be provided on-site by projects subject to these provisions and authorizes such project's to use bonus density of up to 20%. The proposed rules also provide for development standards and exceptions to compliance. Because the rules cannot be fully implemented until the Zoning Commissions maps the properties to be subject to the inclusionary requirements and the District of Columbia publishes the first schedule of maximum rents and purchase prices, the proposed rules provide for a delayed applicability date. The actual length of the delay has been left blank for the public to suggest an appropriate number of days.

Final rulemaking action shall be taken in not less than forty-five (45) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

Title 11 of the DCMR, ZONING, is amended by adding a new chapter 26, to read as follows:

CHAPTER 26 INCLUSIONARY ZONING

| | |
|-------------|-----------------------------------|
| 2600 | General Provisions |
| 2601 | Definitions |
| 2602 | Applicability |
| 2603 | Set-Aside Requirements |
| 2604 | Bonus Density |
| 2605 | Development Standards |
| 2606 | Exceptions from Compliance |
| 2607 | Off-site Compliance |
| 2608 | Applicability Date |

2600 GENERAL PROVISIONS

- 2600.1 This chapter establishes an Inclusionary Zoning Program that furthers the Housing Element of the Comprehensive Plan by increasing the amount and expanding the geographic distribution of adequate, affordable housing available to current and future residents.
- 2600.2 It is the intent of the Zoning Commission to promulgate only such regulations as are necessary to establish the minimum obligations of property owners applying

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Z.C. CASE NO. 04-33

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for building permits or certificates of occupancy under an Inclusionary Zoning Program. All other aspects of the program, including the setting of maximum purchase prices and rents, the selection and obligations of eligible households, and the establishment of enforcement mechanisms such as covenants and certifications shall be as determined by the Council and Mayor of the District of Columbia.

2600.3 The most important general purposes of the Inclusionary Zoning Program include the following:

- (a) To utilize the skills and abilities of private developers to produce quality affordable housing;
- (b) To leverage private development, combined where appropriate with zoning density increases, to produce affordable housing throughout the District of Columbia;
- (c) To mitigate the impact of market-rate residential development on the availability and cost of housing available and affordable to low and moderate-income households;
- (d) To increase the production of affordable housing units throughout the District to meet existing and anticipated housing and employment needs;
- (e) To provide for a full range of housing choices throughout the District for households of all incomes, sizes, and ages to preserve diversity and to ensure the benefits of economic integration for the residents of the District;
- (f) To stabilize the overall burden of housing costs on low and moderate-income households;
- (g) To create a stock of housing that will be affordable to low and moderate-income residents over a long term; and
- (h) To make homeownership opportunities available to low and moderate-income residents

2601 **DEFINITIONS**

2601.1 When used in the chapter, the following terms and phrases shall have the meanings ascribed:

Achievable bonus density - The amount of the bonus density permitted under § 2604 that potentially may be utilized within a particular inclusionary development, notwithstanding constraints resulting from the physical

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characteristics of the land or restrictions imposed by District or federal laws and agencies.

The Act – [NAME OF THE LEGISLATION ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER]. References to the Act include any Mayor's Order, agency rule, or other administrative issuance promulgated pursuant to that legislation.

Development, inclusionary– a development subject to the provisions of this chapter pursuant to § 2602.1.

Development, for-sale – an inclusionary development in which the majority of the market-rate units are separately offered for sale to individual purchasers.

Development, off-site – a development that accounts for all or part of an inclusionary development's requirements under this chapter if approved pursuant to § 2607.

Development, rental – an inclusionary development in which the majority of the market-rate units are offered for lease to individual tenants, regardless of whether a condominium regime has been established.

Eligible household – one or more persons certified by the Mayor as being a low or moderate-income household pursuant to the Act.

Inclusionary unit – a unit set aside for sale or rental to eligible low and moderate-income households as required by this chapter or by order of the Board of Zoning Adjustment pursuant to § 2607.

Inclusionary Zoning Overlay – the overlay district established by Zoning Commission Order __-__, published in the _____, 200__ edition of the *D.C. Register*.

Low-income household – a household of one or more individuals with a total annual income adjusted for household size equal to or less than fifty percent (50%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.

Mayor – the Mayor of the District of Columbia, the Director of the agency or agencies delegated the authority to implement the Act, or the agency official or officials re-delegated such authority.

Moderate-income household – a household of one or more individuals with a total annual income adjusted for household size equal to between fifty percent

(50%) and eighty percent (80%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.

Purchase\rental schedule -the most current schedule, published by the Mayor pursuant to the Act, establishing the maximum purchase prices and rents for inclusionary units.

2602 APPLICABILITY

2602.1 Except as provided in 2602.3, the requirements and incentives of this chapter shall apply to developments that:

- (a) Are mapped within the Inclusionary Zoning Overlay; and
- (b) Have ten (10) or more dwelling units (including off-site inclusionary units); and
- (c) Are either:
 - (i) New multiple-dwellings;
 - (ii) New one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction; or
 - (iii) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more.

2602.2 A new development with less than ten (10) dwelling units shall become subject to this chapter upon the filing of an application for a building permit to add one or more dwelling units to the development within a two year period after the issuance of the last certificate of occupancy, if the construction for which application has been filed would result in the development having ten (10) or more dwelling units.

2602.3 This chapter shall not apply to hotels, motels, inns, dormitories, rooming houses, boarding houses, community-based residential facilities, single room occupancy developments, or developments in R-1, R-2 and C-4 zone districts.

2602.4 Except as provided in §§ 2602.5 and 2608.1 (c), all inclusionary units created pursuant to this chapter shall be leased or sold only to eligible households for so long as the inclusionary development exists.

- 2602.5 An owner/occupant of an inclusionary unit may sell the unit at a price greater than the maximum permitted under the purchase/rental schedule if the price is offered by the Mayor.

2603 SET-ASIDE REQUIREMENTS

- 2603.1 Inclusionary developments for which the primary method of construction does not employ steel and concrete frame structure located in an R-3 through an R-5-B zone district or in a C-1, C-2-A, W-0 or W-1 zone district shall devote the greater of 10% of its matter of right density, or 75% of its achievable bonus density to inclusionary units.
- 2603.2 Inclusionary developments of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-3, CR, SP, W-2 or W-3 zone district shall devote the greater of 8% of its matter of right density or 50% of its achievable bonus density to inclusionary units
- 2603.3 Inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, W-0 and W-1 shall set aside 50% of inclusionary units for eligible low-income households and 50% of inclusionary units for eligible moderate-income households.
- 2603.4 Developments located in CR, C-2-B through C-3-C, W-2 through W-3, and SP zone districts shall set aside 100% of inclusionary units for eligible moderate-income households.
- 2603.5 At any time prior to the issuance of the first certificate of occupancy for an inclusionary development, the Mayor shall have the right to purchase up to twenty-five percent (25%) of inclusionary units in a for-sale inclusionary development in accordance with such procedures as are set forth in the Act.

2604 BONUS DENSITY

- 2604.1 Inclusionary developments subject to the provisions of this chapter may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified herein) and the limitations established by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §6-601.01, *et seq.* (2001 Ed.)).
- 2604.2 Inclusionary developments in zoning districts listed in the chart below may use the following modifications to height and lot occupancy in order to achieve the 20% bonus density:

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| Base Zone | Matter of Right Zoning Constraints | | | IZ Zoning Modifications | |
|-----------|------------------------------------|---------------|------------|-------------------------|--------|
| | Lot Occupancy | Zoning Height | Zoning FAR | Lot Occupancy | Height |
| R-5-E | 75% | 90 | 6.00 | 90% | 90 |
| CR | 75% | 90 | 6.00 | 80% | 100 |
| C-2-A | 60% | 50 | 2.50 | 75% | 50 |
| C-2-B | 80% | 65 | 3.50 | 80% | 70 |
| C-2-C | 80% | 90 | 6.00 | 90% | 90 |
| C-3-A | 75% | 65 | 4.00 | 80% | 65 |
| W-1 | 80% | 40 | 2.50 | 80% | 50 |
| W-2 | 75% | 60 | 4.00 | 75% | 80 |
| W-3 | 75% | 90 | 6.00 | 80% | 100 |
| SP-1 | 80% | 65 | 4.00 | 80% | 70 |
| SP-2 | 80% | 90 | 6.00 | 90% | 90 |

- 2604.3 Inclusionary developments in R-3 and R-4 zoning districts may use the minimum lot dimensions as set forth in the following table:

| Base Zone | IZ Zoning Modifications | |
|-----------|-------------------------|---------------|
| | IZ Min Lot Area | Min Lot Width |
| R-3 | 1,600 | 16.0 |
| R-4 | 1,500 | 15.0 |

2605 DEVELOPMENT STANDARDS

- 2605.1 Inclusionary units within a for-sale development may not be offered for lease.
- 2605.2 Inclusionary units within a rental development may not be offered for purchase. Upon conversion of a rental development to for-sale, the inclusionary units may be sold to eligible households in accordance with this chapter and the Act.
- 2605.3 A development that provides, pursuant to federal or other District housing programs, affordable dwelling units for sale or lease may count such units towards the requirements of this chapter provided that all provisions of this chapter and the Act are met.
- 2605.4 The mix of unit sizes amongst the inclusionary units in an inclusionary development shall contain on average at least the same number of bedrooms as the market-rate units in the project
- 2605.5 All inclusionary units shall be comparable in exterior design, materials, and finish to the market-rate units.

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2605.6 The interior amenities of inclusionary units such as finishes and appliances shall be comparable to the market-rate units, but may be of less expensive materials and appliances.

2605.7 The gross floor area of an inclusionary unit shall be not less than 95% of that of a comparable market-rate unit, as determined by bedroom size. If there is more than one size for a particular type of market-rate unit, the average inclusionary unit size shall be not less than the 95% of the average size of the comparable market-rate units.

2605.8 All inclusionary units in an inclusionary development shall be constructed prior to or concurrently with the construction of market-rate units, except that in a phased development the inclusionary units shall be constructed at a pace that is proportional with the construction of the market-rate units.

2605.9 All inclusionary units shall be reasonably dispersed throughout the development project.

2606 EXEMPTION FROM COMPLIANCE

2606.1 The Board of Zoning Adjustment shall reduce the requirements of § 2603 for each square foot of achievable bonus density that cannot be accessed due to:

- (a) Site conditions such as shape, slope or other similar physical conditions;
or
- (b) Development restrictions imposed on the property by District or federal government agencies.

2606.2 Applicants seeking relief under § 2606.1 (a) shall submit architectural plans and elevations studies demonstrating the impact of site conditions on achieving the maximum permitted bonus density

2606.3 Applicants for relief under § 2606.1 (b) shall include with their application the written order that imposed the relevant development restriction and shall certify that the restriction was not in the original plans submitted by the applicant to the agency, but was either offered in response to the agency's concerns expressed on the record or was unilaterally imposed by the agency.

2607 OFF-SITE COMPLIANCE

2607.1 The Board of Zoning Adjustment is authorized to permit some or all of the set aside requirements of § 2603 to be constructed off-site on property owned by the Applicant upon proof, based upon a specific economic analysis, that compliance would impose an economic hardship. Among the factors that may be considered by the BZA in determining the existence of economic hardship are:

- (a) Exceptionally high fees in condominium developments that cannot be reduced to levels affordable to eligible households;
- (b) The inclusion of expensive and specialized social or health services in a retirement housing development or a development that principally provides housing for the disabled, if such services that are not severable from the provision of housing and render units in the development unaffordable to eligible households; or
- (c) For a rental development whose owner wishes to change the property's use to one listed in § 2602.3, proof that continuation of the rental use is no longer economically feasible.

2607.2 An applicant who has demonstrated the existence of economic hardship shall further demonstrate that the off-site development:

- (a) Is located within the same census tract as the inclusionary development;
- (b) Consists of new construction for which no certificate of occupancy has been issued
- (c) Is at a location suitable for residential development;
- (d) Has complied with or will comply with all on-site requirements of this chapter as are applicable to it;
- (e) Has not received any development subsidies from federal or District government programs established to provide affordable housing; and
- (f) Will provide inclusionary units comparable in type to the market-rate units being created in their place, with gross floor areas of not less than 95% of the gross floor area of such market-rate units, and of a number no fewer than the number of units that would otherwise have been required on-site.

2607.3 The requirement of 2607.2 (a) may be waived upon a showing that the Applicant, after good faith efforts, was unable to locate properties within the same census tract or that the costs to purchase and develop available properties would render both the inclusionary and off-site projects economically infeasible.

2607.4 Inclusionary units constructed off-site shall not be counted toward any set aside requirement separately applicable to the off-site development pursuant to § 2603.

2607.5 No order granting off-site compliance shall become effective until a covenant, found legally sufficient by the Office of the Attorney General, has been recorded

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in the land records of the District of Columbia between the owner of the off-site development and the Mayor.

2607.6 The covenant shall bind the owner and all future owners of the off-site development to:

- (a) Construct and reserve the number of inclusionary units allowed to be accounted for off-site in accordance with the plans approved by Board and the conditions of the Board's order;
- (b) Sell or rent, as applicable, such units in accordance with the provisions of this chapter and the Act for so long as the off-site development remains in existence;
- (c) Neither apply for nor accept any development subsidies from federal or District government programs established to provide affordable housing;
- (d) Acknowledged that the owners are legally responsible for the set aside requirement accepted as if the requirement had been imposed directly on the off-site development; and
- (e) Not request special exception or variance relief with respect to the obligations accepted; or its own obligations under this chapter.

2607.7 Upon the recordation of the covenant, the set aside requirements permitted to be accounted off-site shall be deemed to be the legal obligation of the current and future owners of the off-site development. All dwelling units as are required to be reserved in the off-site development in accordance with the BZA order shall be deemed inclusionary units for the purposes of this chapter and the Act.

2607.8 No application for a certificate of occupancy for a market-rate unit on the inclusionary development shall be granted unless construction of the off-site inclusionary units is progressing at a rate roughly proportional to the construction of the on-site market-rate units.

2608 APPLICABILITY DATE

2608.1 The provisions of this chapter shall become effective ____ days following the issuance of the first purchase/rental schedule or the publication date in the *D.C. Register* of Zoning Commission Order ____, establishing the Inclusionary Zoning Overlay, whichever is the last to occur.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Sharon Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington D.C. 20001. Comments must be received

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not later than forty-five (45) days after the publication of this notice in the *D.C. Register*. A copy of this proposal may be obtained, at cost, by writing to the above address.